

REMARKS

Claims 17-21, 23-25 and 27-34 are pending.

Independent claim 17 has been rejected under 35 USC 103 as obvious in view of U.S. Patent No. 6,594,502 to Koester (“Koester”) and U.S. Patent No. 6,052,122 to Sutcliffe (“Sutcliffe”).

The applicant respectfully disagrees. Specifically, in order to reject a claim under 35 USC 103, the Examiner must establish 1) all of the claim elements exist in the art; 2) a motivation to combine the elements to arrive at the claimed invention; and 3) a likelihood of success.

Here, the Examiner alleges that Koester discloses that “identifying each of said users as a paying user or a non-paying user”. Careful review of Koester, however, reveals that Koester does not disclose such identifying. Koester merely contemplates several ways potential dater can pay for use of the service.

As noted by the Examiner, Koestner contemplates

“Potential daters can be charged for accessing personal information on subscribers, through a “900” telephone number to the voice mailbox system, or through charges on a web site.” (column 2, lines 64-66)

Thus, a non-exhaustive list of how the service could be paid for is disclosed. And, although Koestner uses the permissive mood of the English language in enumerating payment possibilities, Koestner simply does not disclose that potential daters would not pay for use of the service.

More significantly, Koestner simply does not identify (or classify) each of the plurality of users as paying or non-paying. For clarity, claim 17 has been amended to clarify that each of the plurality of users is classified as a paying user or a non-paying user, from an indicator obtained from the user indicating if the user wishes to pay for use of the service. Koestner likewise does not disclose or suggest such obtaining or classifying. Without disclosing obtaining or classifying each user as paying or non-paying, Koestner simply cannot render the claimed invention obvious.

The Examiner further asserts that independent claims 23, 27, 30, 31 and 32 remain anticipated by Sutcliffe, and has again rejected these claims under 35 USC 102. In paragraph 3 of the Examiner's Action, the Examiner asserts that

"...in Sutcliffe, the user must pay for stamps to initiate communication, thus, the user paying for the stamps is a paying user, in Sutcliffe a non-paying user will never be allowed to receive a message from another non-paying user and a paying user would be able to receive all greetings". The fact that in Sutcliffe all "greetings" are only those from paying users is irrelevant.

For clarity, claims 27, 30 and 31 have been amended to specify that paying users have access to the plurality of messages originating with both the paying and non-paying users. Clearly this is not disclosed by Sutcliffe.

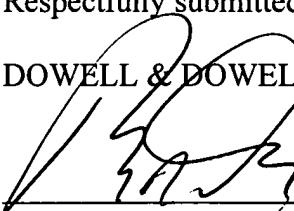
Further, claim 32 and the independent claims 27, 30 and 31 have been amended to clarify that paying users are allowed to access those greetings originating with paying users stored at the message exchange device/server, through or by way of the message exchange device. It is believed that this addresses the Examiner's comment that "Notice that claim 32 ... is broad enough to cover a non-paying user sending a random email to the paying user. Sutcliffe still reads on claim 32 because Sutcliffe does not preclude the paying user from receiving a greeting from the non-paying user though it may be unlikely to happen in the Sutcliffe system." As claimed, it is the stored greetings that paying users have access to, by way of the message exchange device, and not random emails as conjectured by the Examiner.

In view of the foregoing, it is believed that amended claims 23, 27, 30, 31 and 32 and claims 24, 28-29, dependent thereon are not anticipated by Sutcliffe.

Similarly, the claimed billing model of allowing non-paying users to interact only with paying users while allowing paying users to interact with all users is simply not disclosed by Sutcliffe nor suggested by Sutcliffe or the remaining references. Therefore, it is believed that no combination of Sutcliffe and the remaining references (e.g. U.S. Patent No. 6,865,161 to Sponaugle et al.) would render independent claims 17, 23, 27, 30, 31 and 32 or the remaining claims obvious under 35 USC 103. Withdrawal of the rejection of the claims 18-21 and 25, under 35 USC 103 is therefore also requested.

No new matter has been added by these amendments.

Favorable reconsideration and allowance of the application is therefore respectfully requested.

Respectfully submitted,

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